

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TEXAS

TEXARKANA DIVISION

BENJAMIN WAYNE MCCOIN

§

VS.

§

CIVIL ACTION NO. 5:07cv136

DIRECTOR, TDCJ-CID

§

MEMORANDUM ORDER OVERRULING OBJECTIONS AND ADOPTING
THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Benjamin Wayne McCain, proceeding *pro se*, filed the above-styled petition for writ of habeas corpus. The court previously referred this matter to the Honorable Earl S. Hines, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The magistrate judge has submitted a Report and Recommendation of United States Magistrate Judge concerning this matter. The magistrate judge recommends this matter be dismissed without prejudice.


The court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such referral, along with the record, pleadings and all available evidence. Petitioner filed objections to the Report and Recommendation.

The court has conducted a *de novo* review of the objections in relation to the pleadings and the applicable law. See FED. R. Civ. P. 72(b). After careful consideration, the court concludes the objections are without merit. The magistrate judge's recommendation was based on a sanction order previously entered by the United States District Court for the Western District of Texas. In his objections, petitioner did not address the basis of the magistrate judge's recommendation.

O R D E R

Accordingly, petitioner's objections are **OVERRULED**. The findings of fact and conclusions of law of the magistrate judge are correct and the report of the magistrate judge is **ADOPTED**. A final judgment will be dismissing this lawsuit.

SIGNED this 7th day of March, 2008.



DAVID FOLSOM
UNITED STATES DISTRICT JUDGE